IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

Crl.MC.No. 3260 of 2007()

CC.1444/2000 of CHIEF JUDL.MAGISTRATE COURT, ERNAKULAM

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PETITIONER/ACCUSED:

S.BALAKRISHNAN, "KALAPURACKAL HOUSE",
ADIMALY P.O., IDUKKI DISTRICT.

BY ADV. SRI. MANOJ R. NAIR

RESPONDENTS:

STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI. M.S. BREEZE, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No.3260 Of 2007

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Dated this the 24th day of October, 2007

ORDER

The petitioner faces indictment in prosecution for offences punishable, inter alia, under Sec.420 IPC. Cognizance has been taken. The case has been registered in the year 2000. The petitioner had entered appearance. He could not appear before the learned Magistrate on 16.10.07, when the case was posted for trial. Consequent to non-appearance of the petitioner, the learned Magistrate has issued warrant of arrest against the petitioner. The petitioner finds such warrant of arrest issued by the learned Magistrate chasing him.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The absence of the petitioner earlier was not wilflul or deliberate. The petitioner is willing to surrender before the learned Magistrate and seeks regular bail, but he apprehends that his application for bail may not be considered by the learned Magistrate, in accordance with law and expeditiously. He therefore prays that a direction may be issued under Section 438 and / or 482 Cr.P.C to the learned Magistrate to release him on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

5. In the peculiar facts and circumstances of the case, there shall be a direction that the warrants of arrest issued against the petitioner on 16.10.07, shall not be executed till 31.10.07. On or before that day, the petitioner must appear before the learned Magistrate and seek regular bail .

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE